THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.32224 of 1997

Dated: 12.02.2007

Between:

Badavath Thavuria and others.

... PETITIONERS

AND

The Special Deputy Collector (Land Acquisition Officer)
for exploitation of dolamite, Yellandu.

...RESPONDENT

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.32224 of 1997

ORDER:

The petitioners approached this Court and filed the present writ petition with the following prayer:

> *"For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may, in the interest of justice, be pleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus directing the Respondent to re-determine the Market Value of the Lands, structures, Wells etc., of the Petitioners, acquired vide Gazette Notification No.245, Dt:20-05-1981 and Award No:1/1982, particulars of which are given in Annexure:I, in accordance with the Division Bench Judgment of this Hon'ble Court in L.P.A.Nos:222 – 256 of 1989, Dt:12-04-1990, after declaring the Order of the Respondent Dt: 4-11-1996 in Rc.No:D-3926/94, marked as Ex:A-1, as arbitrary, illegal and violative of Art:14,21 and 300-A of the Constitution of India."*

The brief facts of the case are as under:

A notification, proposing to acquire certain lands

belonging to the petitioners situated at Pocharam Village, Garla Mandal, Khammam District, under Section 4(1) of the Land Acquisition Act, 1894, (for short 'the Act') and others, was published in the official Gazette on 20.05.1981 and after following the procedure prescribed under the Act i.e., issuance of draft declaration, award enquiry etc., the Land Acquisition Officer concerned passed Award No.1 of 1982 on 08.04.1982. On a reference under Section 18 of the Act sought for by some of the claimants, the matter was referred to a competent Civil Court for determination of compensation. The Civil Court, after hearing all the parties concerned, passed awards in O.P.Nos.177 to 209 of 1986 and 56 to 59 of 1987 on 24.06.1988. Against the same, appeals, being A.S.Nos.2328 of 1988 and batch, were carried by the Government and a Division Bench of this Court, by judgment dated 12.04.1990 modified the market value fixed by the Civil Court. Against the same, the petitioners submitted petitions under Section 28-A of the Act for re-determination of the amount of compensation. However, the respondent by impugned order dated 04.11.1996 rejected said petitions. Aggrieved by the same, the present writ petition is filed.

The contention of the learned counsel for the petitioners is that though the petitions submitted under Section 28-A of the Act dated 22.09.1988 are well within the time prescribed under the Act, the respondent rejected them on the ground that they are barred by limitation.

A detailed counter-affidavit has been filed by the respondent, wherein it is categorically admitted in para 6 that altogether 25 applications were received in the office of the respondent on 22.09.1988 for re-determination of the

amount of compensation under Section 28-A of the Act.

In fact this issue came up for debate before the Apex Court as well as this Court. It is now settled principle of law that it is not the date of the award of the Land Acquisition Officer that has to be taken into consideration while calculating the limitation for filing a petition filed under Section 28-A of the Act but the date of the award passed by the Civil Court or the date of the knowledge of the award.

In view of the settled law, this Court is of the considered view that the petitions dated 22.09.1988 submitted by the petitioners are well within three months, as stipulated under Section Act 28-A of the Act, from 24.06.1988 i.e., the date of award of the Civil Court.

Accordingly, the writ petition is allowed and the impugned order dated 04.11.1996 is set aside. The matter is remanded to the respondent for re-determination of the amount of compensation on the basis of the award of the Civil Court in accordance with the Act. Having regard to the fact that the lands were acquired way back in 1981, the respondent is directed to complete the exercise within a period of three months from the date of receipt of a copy of this order. No costs.

(GOPALA KRISHNA TAMADA, J)

12th February, 2007.
ghn